



Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
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**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2203590
Applicant Name: Chris Listfeld for Cingular Wireless
Address of Proposal: 400 North 105th Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a minor communication utility (Cingular Wireless) consisting of three sector antennas on a new 59-foot monopole (flagpole). Project also includes an equipment cabinet located on a concrete slab within a new fenced area.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility to exceed the height limit in a residential Lowrise 2 (L2) zone.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

SEPA DETERMINATION: ☐ EXEMPT ☐ DNS ☐ EIS

 ☒ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition
 involving another agency with jurisdiction

BACKGROUND DATA

Site Location and Description

The subject property is located in a Multi-Family Residential Lowrise 2 (L2) zone at 400 North 105th Street. The site is located at the corner of North 105th Street and Phinney Avenue North in the northwest area of Seattle.

This rectangular shaped site is developed with an existing one-story church building (Living Way Foursquare Church) with a daylight basement and an associated parking area. The surrounding zoning and uses are:

North: SF 7200 zone - Single family residential,
East: L-2 zone - Accessory church structures, single family residential and multi-family residential
South: C1-40 and L-2 zones - Mixed use, apartments and single family residential,
West: C1-40 and SF 7200 zones - Restaurant and single family residential,

North 105th Street is developed with a variety of one-two story commercial, retail and residential structures. North 105th Street is classified as a principal arterial, pursuant to SMC Chapter 23.53 and supports a high volume of traffic.

Proposal Description

Master use permit to establish use for installation of a minor communication utility (Cingular Wireless) consisting of three sector antennas with one antenna per sector, for a total of three antennas. The proposed antennas will be mounted on a new sixty-foot (60') flagpole with radio equipment located on a concrete slab on grade. The cabinet equipment will occupy approximately 230 square feet (sq. ft.) of area and will be screened with a 6' cedar fence with a 2' lattice detail, extending to an overall height of 8'. The proposed minor communication utility will be located towards the rear northwest corner of the church fronting on Phinney Avenue North. The equipment cabinet shelter will be built adjacent to existing concrete stairs. Part of the proposal is to remove a portion of the existing concrete stairs and construct a new wood staircase with guardrail to provide for the church exit egress requirements.

Public Comment

The public comment period for this project began October 3, 2002 and ended on October 16, 2002. DCLU received no comments during that time.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

- 1. The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The proposed flagpole/stealth monopole would be located in a Lowrise 2 residential zone. The proposed antennas will be mounted inside the 60-foot flagpole/stealth monopole. The existing developments on the site are the existing church building and the church parking lot. The church also owns property immediately north and east of the subject site. The northernmost property consists of vacant land and the easternmost property consists of three detached one-story buildings accessory to the church. The proposal will not be significantly detrimental to the residential character of the surrounding area because it is proposed in the portion of the site that is the least intrusive. This portion of the subject site is covered with natural vegetations, tall deciduous trees and shrubs. The flagpole/stealth monopole with internal antennas would be located near the northwest corner of the site amongst the surrounding natural vegetation. The antennas would be inside the flagpole/stealth monopole and painted to match the flagpole/stealth monopole's exterior. The radio cabinets will be enclosed within an 8' screened fence in order to mask the equipment.

The views from neighboring residential structures would not be altered by the presence of the facility. The applicant has provided photographically simulated evidence suggesting that the visual intrusion would be minor.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise. According to the applicant, any noise associated with the equipment cabinet are estimated to be below the ambient levels allowed in the Lowrise 2 zone and will be shielded by the walls of the fence in which it is to be located. Thereafter, it is proposed that minimal noise will be associated with approximately one vehicle trip per month to the site for maintenance. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible by the design of the flagpole/stealth monopole in order to screen and camouflage the antenna location on this. The associated cabinet equipment will be located at grade and will be screened by a view obscuring wood fence.

According to the plans submitted, the proposed radio cabinets within an 8 foot cedar residential privacy fence are locked and vandal resistant. It also appears that some landscaping will be removed to accommodate the new equipment shelter. This landscaping must be replaced. Also, due to the proximity of the equipment shelter to the existing elevated stairwell, the shelter's close proximity of the street and the potential for someone to gain unauthorized access into the gated area from the top of the fence, it suggests that a more secure equipment shelter design should be proposed.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
- b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The proposed antennas will be on a flagpole/stealth monopole. The proposed minor communication facility would be 60 feet high and exceeds the 25 feet height limit of this Lowrise 2 zone. However, at 60 feet height the proposed flagpole/stealth monopole would not cause view blockage and shadow impacts in the area because of the existing tall trees near the existing monopole.

Due to the operational characteristics of the facility proposed, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the digital system. The strict application of the standards would preclude the applicant from providing wireless services for the intended coverage area, which includes Greenwood, Aurora and the Blue Ridge Neighborhoods. The site was chosen because its elevation and location are uniquely suited to serve the adjoining residential and commercial areas. No commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives. The additional height above the zone development standard is the minimum required to place the structure on a 60-foot tall flagpole/stealth monopole to obtain sufficient coverage. The ground level alternative is technically unfeasible and would potentially face significant citizen opposition. This flagpole/Stealth monopole would be less visually intrusive in this location as proposed because of the existing natural vegetation surrounding the facility. According to the applicant, the literal interpretation and strict application of the Land Use Code would be that Cingular Wireless, Inc could not meet its federal mandate of its FCC license to provide high speed wireless access throughout the Seattle metropolitan area. This proposal site at this elevation is a vital link in the planned network for the Seattle Metropolitan area. Given these alternatives, the proposed height of the pole is the minimum necessary for the effective functioning of the utility. Thus, this criterion is satisfied.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building or an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The intended coverage area is specifically the ridge between Greenwood Avenue North and Aurora Avenue North, mainly due to the topography of that area. According to the information received by DCLU, the area with no coverage is within an area zoned entirely

single family residential. Cingular is unable to locate an additional facility within a commercial zone along Aurora Avenue North to fill this gap and locating a facility along Greenwood Avenue North would require a much taller, thus visibly obtrusive structure in order to fill the coverage gap. Properties around the intersection of Holman Road, Greenwood Avenue North and North 105th Street interchange are the areas necessary for a potential site. The properties within the aforementioned area are typified by undersized lots that have been developed to fully utilize the full extent of their property. Monopole options were pursued but each property was discounted due to parking loss impacts, lack of vehicle maneuvering area and/or lack of area necessary for radio equipment. Rooftop solutions were sought but would not work due to the lack of multi-story commercial structures located in a higher elevation to the south of this interchange. The church was chosen because of its elevation atop the ridge and its non-residential use. This property's location on the crest of the hill becomes a necessary location for the proposed flagpole and panel antennas from an engineering perspective because of the location to the service and coverage area, and height of the subject in the service area necessary to provide line of site transmission of cellular frequencies to the edge of the service area. Therefore, the subject site thus becomes a natural choice for this type of installation.

The proposed facility is more than 20 feet from all property lines except for the west property line which fronts on Phinney Avenue North. The applicant requested and obtained an exception pursuant to landscaping and setback requirements (SMC 23.57.008.C.3). The applicant provided multiple scenarios as to alternative locations sought for the proposed facility on the site. Thus to minimize negative visual impacts, the proposed flagpole, panel antennas and the electronic cabinet equipment are proposed to be located in the rear corner of the church, using that portion of the existing church with no architectural features; no windows or pleasing façade will be blocked; and utilize existing area covered by natural vegetation, tall deciduous trees which will assist in shading the flagpole.

SUMMARY

The proposed project is consistent with the administrative conditional use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED**.

SEPA ANALYSIS

Environmental review resulting in a threshold determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated August 30, 2002. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise; consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant pursuant to SMC 25.05.794 and no mitigation is warranted.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

Long-Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including increases in the following: height, bulk and scale on the site; demand for utilities and electromagnetic radiation emission. These long term impacts are not considered significant. Height, bulk and scale impacts would be in compliance with the Land Use Code standards for minor communications utilities.

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density atop the flagpole/stealth monopole and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2) (C).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

For the Life of the Permit

1. Screening shall be integrated with architectural design, material, shape and color that are sympathetic to that of a flagpole.
2. Screening for the equipment shelter shall be integrated with the architectural design, material, shape and color of the existing church.
3. Landscaping removed due to the placement of the equipment cabinet must be restored and maintained near the base of the flagpole/stealth monopole.
4. Equipment cabinet shelter must be fully enclosed with a roof or an optional "barrier" design that would hinder persons from entering the shelter from atop the adjacent exit stairs.

SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: July 17, 2003
Tamara Garrett, Land Use Planner
Department of Design, Construction and Land Use